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Mr. Kia Silverbrook  
Managing Director  
Silverbrook Research Pty Ltd  
393 Darling Street  
Balmain, NSW 2041  
Australia

In re Application of  
SILVERBROOK

Application No.: 10/510,097

PCT No.: PCT/AU02/01168

Int. Filing Date: 29 August 2002

Priority Date: 12 April 2002

Attorney Docket No.: YU169US

For: SYMMETRICALLY ACTUATED INK  
EJECTION COMPONENTS FOR AN INK  
JET PRINTHEAD CHIP

DECISION ON PETITION

UNDER 37 CFR 1.181

This is a decision on applicant's "Request to Withdraw Holding of Abandonment" filed on 11 April 2005 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181.

### **BACKGROUND**

On 29 August 2002, applicant filed international application PCT/AU02/01168, which claimed priority of an earlier application filed 12 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 October 2004.

On 05 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by a check in the amount of \$1080.00; a declaration executed by the inventor; an Information Disclosure Statement and an assignment document for recording.

On 25 February 2005, applicant was mailed a Notification of Abandonment (Form PCT/DO/EO/909) informing applicant that the application was considered abandoned as to the United States of America for failure to provide the full U.S. Basic National Fee by thirty months from the priority date.

On 11 April 2005, applicant filed the present petition.

### DISCUSSION

A review of the application file, as well as, the papers filed by applicant 11 April 2005 finds that applicant filed a check in the amount of \$1080.00 on 05 October 2004. In the present case the international search report and international preliminary examination report were prepared by the Australian Patent Office. As of 01 October 2004, the United States Basic National Fee for instances where neither the international search report nor the international preliminary examination report were prepared by the USPTO was \$1110.00. Therefore, abandonment of the National stage application was proper.

### CONCLUSION

The petition to withdraw holding of abandonment under 37 CFR 1.181 has been considered, however, for the reasons indicated above, the petition stands **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181." No additional fee is required.

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3294  
Fax: (571) 273-0459